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6 IN THE UNITED STATES DISTRICT COURT

7 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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10 BARON JOHN BADILLO, No. C 07-2477 WHA (PR)
11 Petitioner,
12 vs.
13 JAMES A. YATES, Warden,
14 Respondent.
15 _____ /

**ORDER OF DISMISSAL WITH
LEAVE TO AMEND**

16 This is a habeas case filed pro se by a state prisoner. It was filed in the United States
17 Court of Appeals for the Ninth Circuit, which transferred it here. Petitioner has paid the filing
18 fee. Venue is proper in this district because the conviction was obtained in Santa Clara County,
19 which is in this district. *See* 28 U.S.C. § 2241(d).

20 **STATEMENT**

21 Petitioner was convicted of failure to register as a sex offender. *See* Cal. Penal Code §
22
22 290(f)(1). With an enhancement for two prior strikes, he was sentenced to prison from twenty-
23 five years to life.

24 **DISCUSSION**

25 *A. Standard of Review*

26 A district court may entertain a petition for writ of habeas corpus "in behalf of a person
27 in custody pursuant to the judgment of a State court only on the ground that he is in custody in
28 violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2254(a).

1 A habeas petition may be summarily dismissed "[i]f it plainly appears from the face of
2 the petition and any exhibits annexed to it that the petitioner is not entitled to relief in the
3 district court. . ." See Rule 4, Rules Governing Section 2254 Cases; *Hendricks v. Vasquez*,
4 908 F.2d 490, 491 (9th Cir. 1990). Summary dismissal is appropriate only where the
5 allegations in the petition are vague or conclusory, palpably incredible, or patently frivolous or
6 false. See *id.* (quoting *Blackledge v. Allison*, 431 U.S. 63, 75-76 (1977)).

7 || B. Legal Claims

8 The petition is on a form. In the area for setting out the petitioner's grounds for habeas
9 relief, petitioner has written as to ground one "[s]ame as to rule one;" as to ground two, "same
10 as to rule two," and "same as to rule three" for a third ground. There is no explanation what he
11 means by this. His appellate brief on direct appeal is attached, but the petition contains no
12 attempt to incorporate the issues presented there by reference, and the brief contains four issues,
13 not three. Although it does seem likely that petitioner was attempting to refer to his appellate
14 brief, the Court cannot be certain of that. In order to protect petitioner's rights, he will be
15 allowed to file an amended petition explaining what issues he wishes to present.

CONCLUSION

17 1. The petition is **DISMISSED** with leave to amend within thirty days from the date of
18 this order. The amendment must include the caption and civil case number used in this order
19 and the words **AMENDED PETITION** on the first page. Petitioner need not again attach the
20 petition for review. Failure to amend on time will result in the dismissal of the case.

21 2. It is petitioner's responsibility to prosecute this case. Petitioner must keep the court
22 informed of any change of address and must comply with the court's orders in a timely fashion.
23 Failure to do so may result in the dismissal of this action for failure to prosecute pursuant to
24 Federal Rule of Civil Procedure 41(b).

IT IS SO ORDERED.

27 || Dated: May 15 , 2007.

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Wm. Alsup
WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE